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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 922

Docket Number 160413330-6330-01

RIN 0648-BF99

**Delay of Discharge Requirements for U.S. Coast Guard Activities
in Greater Farallones and Cordell Bank National Marine
Sanctuaries**

AGENCY: Office of National Marine Sanctuaries (ONMS), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Final rule; delay of effectiveness for discharge requirements with regard to U.S. Coast Guard activities.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA) expanded the boundaries of Gulf of the Farallones National Marine Sanctuary (now renamed Greater Farallones National Marine Sanctuary or GFNMS) and Cordell Bank National Marine Sanctuary (CBNMS) to an area north and west of their previous boundaries with a final rule published on March 12,

2015. The final rule entered into effect on June 9, 2015. At that time, NOAA postponed the effectiveness of the discharge requirements in both sanctuaries' regulations in the areas added to GFNMS and CBNMS boundaries in 2015 with regard to U.S. Coast Guard activities for 6 months. Since then, NOAA published two notices to extend the postponement of the discharge requirements to provide adequate time for completion of an environmental assessment, and subsequent rulemaking, as appropriate. This extension would end on December 9, 2016. This document extends the postponement of the discharge requirements for these activities for another 6 months for the same reasons.

DATES: The effectiveness for the discharge requirements in both CBNMS and GFNMS expansion areas with regard to U.S. Coast Guard activities is June 9, 2017.

ADDRESSES: Copies of the FEIS, final management plans, and the final rule published on March 12, 2015, can be viewed or downloaded at http://farallones.noaa.gov/manage/expansion_cbgf.html.

FOR FURTHER INFORMATION CONTACT: Maria Brown, Greater Farallones National Marine Sanctuary Superintendent, at Maria.Brown@noaa.gov or 415-561-6622.

SUPPLEMENTARY INFORMATION:

I. Background

On March 12, 2015, NOAA expanded the boundaries of Gulf of the Farallones National Marine Sanctuary (now renamed Greater Farallones National Marine Sanctuary or GFNMS) and Cordell Bank National Marine Sanctuary (CBNMS) to an area north and west of their previous boundaries with a final rule (80 FR 13078). The final rule entered into effect on June 9, 2015 (80 FR 34047). To ensure that the March 12, 2015, rule does not undermine USCG's ability to perform its duties, at that time, NOAA postponed the effectiveness of the discharge requirements in both sanctuaries' regulations with regard to U.S. Coast Guard (USCG) activities for 6 months. Two additional six month postponements of the effectiveness of the discharge requirements were published in the Federal Register on December 1, 2015 (80 FR 74985) and May 31, 2016 (81 FR 34268), to provide adequate time for completion of an environmental assessment and to determine NOAA's next steps. Without further NOAA action, the discharge regulations would become effective with regard to USCG activities December 9, 2016. However, NOAA needs more time to develop alternatives for an environmental assessment developed pursuant to the requirements of the National Environmental Policy Act. Therefore, this notice postpones the effectiveness

of the discharge requirements in the expansion areas of both sanctuaries with regard to USCG activities for another 6 months, until June 9, 2017. During this time, NOAA will continue to consider how to address USCG's concerns and, among other things, whether to exempt certain USCG activities in sanctuary regulations. The public, other federal agencies, and interested stakeholders will be given an opportunity to comment on various alternatives that are being considered. This will include the opportunity to review any proposed rule and related environmental analysis. In the course of the rule making to expand GFNMS and CBNMS, NOAA learned from USCG that the discharge regulations had the potential to impair the operations of USCG vessels and air craft conducting law enforcement and on-water training exercises in GFNMS and CBNMS. The USCG supports national marine sanctuary management by providing routine surveillance and dedicated law enforcement of the National Marine Sanctuaries Act and sanctuary regulations.

II. Classification

A. National Environmental Policy Act

NOAA previously conducted an environmental analysis under the National Environmental Policy Act (NEPA) as part of the rulemaking process leading to the expansion of CBNMS and GFNMS, which addressed regulations regarding the discharge of any

matter or material in the sanctuaries. The environmental impacts of the decision to postpone effectiveness reflect a continuation of the environmental baseline and the no action alternative presented in that analysis. Should NOAA decide to amend the regulations governing discharges for USGS activities in CBNMS and GFNMS, any additional environmental analysis required under NEPA would be prepared and released for public comment.

B. Executive Order 12866: Regulatory Impact

This action has been determined to be not significant for purposes of the meaning of Executive Order 12866.

C. Administrative Procedure Act

The Assistant Administrator of National Ocean Service (NOS) finds good cause pursuant to 5 U.S.C. 553(b) (B) to waive the notice and comment requirements of the Administrative Procedure Act (APA) because this action is administrative in nature. This action postpones the effectiveness of the discharge requirements in the regulations for CBNMS and GFNMS in the areas added to the sanctuaries' boundaries in 2015 (subject to notice and comment review) with regard to U.S. Coast Guard activities for 6 months to provide adequate time for public scoping, completion of an environmental assessment, and subsequent rulemaking, as appropriate. Should NOAA decide to amend the regulations

governing discharges in CBNMS and GFNMS, it would publish a proposed rule followed by an appropriate public comment period as required by the APA. The substance of the underlying regulations remains unchanged. Therefore, providing notice and opportunity for public comment under the Administrative Procedure Act would serve no useful purpose. The delay in effectiveness provided by this action will also enable NOAA to fully implement its statutory responsibilities under the NMSA to protect resources of a national marine sanctuary. For the reasons above, the Assistant Administrator also finds good cause under 5 U.S.C. § 553(d) to waive the 30-day delay in effectiveness and make this action effective immediately upon publication.

Authority: 16 U.S.C. 1431 et seq.

December 1, 2016

W. Russell Callender, Ph.D.

Date

Assistant Administrator

for Ocean Services and Coastal Management

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